

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA, : 98-CR-500(FB)
:
:
-against- : United States Courthouse
: Brooklyn, New York
:
:
RASENE MYTON, : Wednesday, October 18, 2023
: 11:00 a.m.
:
Defendant. :
- - - - -X

TRANSCRIPT OF CRIMINAL CAUSE FOR RESENTENCING
BEFORE THE HONORABLE FREDERIC BLOCK
UNITED STATES SENIOR DISTRICT JUDGE

A P P E A R A N C E S:

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Proceedings recorded by computerized stenography.
Transcript produced by Computer-aided Transcription.

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1 (In open court.)

2 COURTROOM DEPUTY: Criminal cause for
3 resentencing, United States v. Myton.

4 Counsel, please state your appearances.

5 MR. ROLLE: Good afternoon, your Honor. Drew
6 Rolle for the United States.

7 THE COURT: Good afternoon.

8 MR. SCHNEIDER: Federal Defenders by Michael
9 Schneider for Mr. Myton.

10 Good afternoon.

11 THE COURT: So, Mr. Rolle, am I pronouncing your
12 name correctly?

13 MR. ROLLE: Yes, your Honor.

14 THE COURT: I don't think you were here when we
15 had this sentence back in 2005.

16 MR. ROLLE: I think everybody on the dais was
17 here. I don't know where I was.

18 THE COURT: How long have you been with the office
19 now?

20 MR. ROLLE: Since 2016.

21 THE COURT: So you had to really familiar yourself
22 with Myton and Bernard and all those wonderful people.

23 MR. ROLLE: Yes, I had his original -- his habeas
24 in 2016.

25 THE COURT: Keep your voice up because my hearing

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1 is going.

2 MR. ROLLE: I had his habeas since 2016, so I've
3 kept track.

4 THE COURT: It's a long history here, obviously.
5 But I think that before we get into the niceties of
6 recalculating everything, it's a trial de novo. It's a
7 sentence de novo. So we want to talk a little bit about
8 some of the less important things and get them out of the
9 way first.

10 So de novo, if you take the word seriously, means
11 "from the beginning." But we don't have to go all the way
12 back to the beginning because I think we could all agree
13 that there's certain parts that we don't have to be
14 concerned about: No fine, we had a whole proceeding, we had
15 a whole sentence, we did not require restitution, and we did
16 require three years of supervised release. And, of course,
17 there was a hundred dollar special assessment for each of
18 the seven which now should reduced to 500 and not 700. I
19 don't know if he's paid any of that, but I think we can
20 possibly all agree that all of these things will still say
21 in place so we can go forward with what really is different
22 from the time we were sentenced.

23 Is that a fair assumption?

24 MR. ROLLE: I think it generally, your Honor, the
25 normal sort of explanation as to the§3553(a) factors, all of

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1 that will have to happen and the special assessment will go
2 to 500.

3 THE COURT: Yes, I think those are the things that
4 have it be dealt with. Really, we can agree that everything
5 else pretty much stays the way it was way back when.

6 MR. ROLLE: I think it's certainly up to --

7 THE COURT: Mr. Schneider?

8 MR. SCHNEIDER: Yes, I will note that Mr. Myton
9 has paid the surcharge, the \$700 surcharge.

10 THE COURT: Pardon me.

11 MR. SCHNEIDER: He has paid all the financial
12 penalties.

13 THE COURT: Has he paid 700?

14 MR. SCHNEIDER: Yes.

15 THE COURT: So he gets a \$200 refund, I guess.

16 MR. SCHNEIDER: I don't know how that's going to
17 work.

18 THE COURT: I don't know how that works out. On a
19 prior case where I had this type of dynamic, there was a
20 restitution that was outstanding so we applied the so-called
21 "refund" to the restitution but we don't have that here.

22 So, Mr. Rolle, you're going to have to figure out
23 how he gets \$200.

24 MR. ROLLE: I'm not sure he's entitled to it, but
25 we'll look at it to the extent that restitution is a

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1 question. I understand from the record there was --
2 restitution was mandatory, there were funeral expenses for
3 the victim that the prosecutors at the time had the had
4 proffered. And then, ultimately, for whatever reason, the
5 parties agreed not to impose it.

6 THE COURT: I know that.

7 Anyway, look, you can just submit me some letter,
8 follow-up letter, has to how you folks agree or not agree on
9 the \$200. That's the least of the problems that we have
10 here, okay? So is there a fair way to process that little
11 thing so we can get that out of the way?

12 MR. SCHNEIDER: Yes.

13 THE COURT: Okay.

14 Now, I'm here with a long history of Mr. Myton.
15 We've grown-up together to some extent. We had the
16 underlying trial back in 2005, was it, 2004, thereabouts.

17 MR. SCHNEIDER: 2001 was the trial.

18 THE COURT: 2001. So I was just on the bench for
19 about five or six years at that time. And this was a case I
20 still remember, after all the passage of time, because we
21 had police officers who were part of this gang and it was a
22 pretty, pretty horrendous violent type of dynamic. So I had
23 to refresh myself a little bit about this history that goes
24 back 20 years. And, of course, Mr. Myton has not been
25 bashful about making all sorts of applications during the

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1 course of his incarceration, and he is certainly entitled to
2 do that, and it has paid off because here we are today.
3 There is going to be a resentence because of the ultimate
4 decisions we got. We waited a long time for the Supreme
5 Court and the Second Circuit to tell us that robbery is a
6 crime of violence, attempted robbery is not a crime of
7 violence. And I think just a couple of weeks of weeks ago
8 they affirmed my decision in Tavares which said that
9 conspiracy is a crime of violence.

10 So we have this, sort of, combination of dynamics
11 here that have brought us here today. I guess the question
12 that I want the Government to think about is that you were
13 not here for Bernard, who was the attorney who handled?

14 MR. ROLLE: It was another AUSA with whom I've
15 spoken and reviewed the filings.

16 THE COURT: I went over the minutes of that
17 proceeding that goes back in May and I gave him time served
18 which was about 21 years at that time. So he's out and he
19 is the one that actual little pulled the trigger that
20 resulted in Davis's death. I'm not absolutely still clear
21 that Myton was very much part and parcel of that even though
22 he wasn't the person who shot him and I spoke about that
23 throughout the years about his complicity. But,
24 nonetheless, Kingsley Bernard, 21 years, time served. He's
25 out, free man now at the anal of 48 or 49. And how do you

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1 deal with Myton when you have to think about comparative
2 sentencing for people similarly situated, I'm not so sure
3 they are. But you're going to have to talk to me about that
4 because when you ask for 80 years and Kingsley was out after
5 20 years or 21 years, that's something which I cannot
6 accommodate, okay, right now. You can talk more about them
7 and it's a serious matter, okay?

8 And Mr. Schneider, from your perspective, Kingsley
9 was an extraordinary rehabilitated prisoner. And your
10 colleague Ms. Eisner-Grynberg did a terrific job and you had
11 a very good staff there that convinced me that time served
12 was appropriate there.

13 And primarily because of extraordinary
14 rehabilitation, he really rang the bell for what would have
15 otherwise possibly been yet another compassionate release
16 decision I would have rendered but not for the fact I didn't
17 have to go there considering the fact that we had to
18 eliminate the gun charges, right?

19 So how does Myton stack up compared to Kingsley
20 Bernard. I don't think he stacks up to Kingsley Bernard at
21 all. To some extent, yes, and a lot of ways, no. I look at
22 him as really being so inextricably involved in long-term
23 horrendous acts of criminal behavior over a decade. And he
24 was a major force in a lot of these crimes which are part of
25 his convictions which Kingsley Bernard was not part of.

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1 Kingsley did pull the trigger and your client did not pull
2 the trigger.

3 So these are the itinerant thoughts I want to
4 share with you before we even get through the recalculation,
5 so to speak, of the guidelines which is move of a technical
6 thing than it really is what really counts in terms of how
7 you treat a person at sentencing.

8 So these are preliminary comments. A little
9 homework assignment for both of you to think about as we go
10 through the proceeding. Having said that, let me identify
11 for the record what I have here.

12 And I assume, Mr. Schneider, that your client is
13 prepared to be resentenced today.

14 MR. SCHNEIDER: Yes.

15 THE COURT: All right. In no necessary order, the
16 last thing I read is the Government's submission which I
17 received this morning. It's dated October 18th and that's
18 where the Government is looking for 80 years, and so, ten
19 years offset because of the fact we can't count the
20 attempted robbery anymore is sufficient. Well, you know my
21 thoughts about that.

22 Now, I'm a little bit late today because you
23 wanted me to read this, I take it. So I had a conflict: If
24 I read this, I would a little late in court. If I didn't
25 read it, I would be here on time.

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1 MR. ROLLE: I appreciate it, your Honor.

2 THE COURT: Okay. So I know it's late in coming
3 but I appreciate what you did. And it was really well done
4 because some times I don't agree with the 80 years because
5 it's not going to happen. You did give me a good history of
6 the background of it. You had to do a lot of work to really
7 get me so up to speed on this, I appreciate it.

8 MR. ROLLE: Certainly, your Honor.

9 THE COURT: Then, I go back to -- I have Kingsley
10 Bernard's amended judgment here going back to May 31st. And
11 I pulled that out because I do think it should be part of
12 the sentencing files since it is very relevant to really
13 reflect upon it as I just mentioned.

14 So we have the underlying presentence report
15 which -- and the addendums to it -- which go back to
16 January 7, 2005. And then we have the addendums to the
17 presentence report. And I have an addendum dated
18 September 20, 2023. Then I have a second addendum dated
19 October 18, 2023, which is today. So I have reviewed all of
20 that and we're going to have to make revised calculations
21 based upon all of that.

22 Now, the underlying sentence that I imposed back
23 in 2005, I have that in my file. I have the mandate from
24 the Second Circuit Court of Appeals. And I got in my file
25 all the addenda going back to 2005. I don't think I have to

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1 spell it out specifically unless you want me to. And I have
2 the -- and my decision and the circuit court's decision. I
3 put that in the file as well. I've got some letters that I
4 put in the file that go back to October 2, 2023. This is
5 sort of printed to me and it's from Liston Watson, and so,
6 he we'll talk about him. I think he's a correction officer
7 or -- I don't know what his position is but he speaks well
8 of Mr. Myton's so-called rehabilitation. And I have the
9 sentencing recommendation of the probation department that
10 goes back to December 13, 2002. So I have all the prior
11 papers as well.

12 Is there anything else that I should have in my
13 file here that may be would bear upon what we're going to be
14 doing today. I think I got it pretty much done.

15 Mr. Schneider.

16 MR. SCHNEIDER: No, your Honor. I'm sorry, you
17 obviously have our submission of October 12th.

18 THE COURT: Yes.

19 So let's now go through making the revised
20 sentencing calculations. Look at the addendum of September
21 20, 2023. And the second addendum, of course, tells us that
22 we should not count the Gross Jewelry Store robbery because
23 he was acquitted of that and that was a profound and
24 important change, and certainly, a relevant change to the
25 addendum which I'm going to talk about now.

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1 So let's see whether we can turn to the
2 calculations and get that out of the way. We know what it's
3 going to add up to. Unless you want me to spend the next
4 20 minutes going through each of these in particular, there
5 are many of them because of the...

6 MR. ROLLE: And I don't believe there is any
7 objection to any of the calculations that's set out in the
8 addendum.

9 THE COURT: We wind up with the adjusted offense
10 level of 43. We know it's going to be the case one way or
11 the other.

12 Mr. Schneider, what do you say? Can we accept
13 that as the adjusted offense level?

14 MR. SCHNEIDER: Yes. Your Honor made that finding
15 at the original sentence that Mr. Myton was culpable for the
16 robbery that ended in the murder and, therefore, the
17 guideline level is 43.

18 THE COURT: It is 43. You know, I remember very
19 specifically it could be concerned way back when that he
20 wasn't the triggerman, but he was so inextricably involved
21 in planning it. And I was particularly taken by the fact
22 that he was the one who dumped the body and planned to dump
23 then body, et cetera, et cetera. I spoke about that in the
24 past. Even though he was not the triggerman, as far as I'm
25 concerned, I can see him clearly coequal with Kingsley

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1 Bernard in terms of the murder of Davis. So that's 43.

2 I have in Paragraph 354 some disciplinary
3 incidents. I don't think they're really anything major, I'm
4 not terribly concerned about that.

5 We have the second addendum as I mentioned dated
6 October 18th which accepts the defendant's counsel's
7 objections to Paragraph 354.

8 And the other paragraphs that you objected to. So
9 I think the record reflects all you of that, right?

10 MR. SCHNEIDER: Yes. The only issue outstanding,
11 and I don't know that it's going to be relevant, is the
12 mandatory minimum that must be imposed on the remaining
13 §924(c) count.

14 THE COURT: That's seven years compared to five
15 years?

16 MR. SCHNEIDER: Right.

17 It's my position, and I think it's pretty much
18 black letter law, that since the brandishing was not charged
19 in the indictment, it's a five-year mandatory minimum. But,
20 of course, that's just the minimum, the Court can impose a
21 sentence up to life on that count.

22 THE COURT: I think the seven years is correct.
23 Look, he's going to get a big break here today. Not going
24 to be what you want, not going to be what the Government
25 wants, but it's going to be a significant change in his

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1 future.

2 But I think the seven years is right because I
3 think the brandishing relevant conduct. I've considered
4 that and I think the fact that the gun was used to pistol
5 whip, or whatever that was, Leon, I think it was Leon Black.
6 Leon King?

7 MR. SCHNEIDER: I don't recall that.

8 THE COURT: One of the victims.

9 MR. ROLLE: Ristolo.

10 THE COURT: I went over that and I am satisfied he
11 really met standard of brandishing. So I consider that as
12 relevant conduct even though it wasn't part of a particular
13 specific charge, okay?

14 MR. SCHNEIDER: I think -- I don't argue with the
15 Court's reasoning. My point is simply that the mandatory
16 minimum was five years. The Court is certainly authorized
17 under the statute to impose seven. It may be helpful to
18 make that finding should there be an appeal here. That's my
19 only point.

20 THE COURT: Keep your record, make your record.
21 It would not surprise me if we have more Myton papers to
22 deal with after today.

23 MR. ROLLE: Your Honor, I think the judgment as to
24 that count is unchanged.

25 MR. SCHNEIDER: No, that -- first of all, I'm not

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1 sure that was the count that received -- no, it has to be
2 changed because the §924(c) counts received either a 5, a 20,
3 or a 25 year sentence at the time.

4 THE COURT: It's either five or seven.

5 MR. SCHNEIDER: So you would have change the
6 sentence no matter what.

7 THE COURT: I think seven is right. And you can
8 preserve your rights, of course, to an appeal. I'm going to
9 tell him right now he has a right to appeal before I forget
10 it which I usually do and let me get that out the way.

11 So if he wants to do that, he'll have to file a
12 Notice of Appeal within 14 days from the date that the
13 judgment will be entered and have to perfect it within
14 30 days thereafter unless gets an extension of time from the
15 Second Circuit Court of Appeals, I suspect.

16 So we've taken care of that.

17 So what we have here is the 20-year cap on all of
18 these Hobbs Act robberies. And that includes the one that
19 was involved with the death of Davis as well. And so, what
20 it comes down to, I've had to deal with this before, is I
21 got the discretion to run them all concurrent which I don't
22 think I'm going to do but you can try to talk me into doing
23 that or to tack on some consecutive time. But the guideline
24 calculation here is 20 years on each of those. If I do keep
25 those all concurrent, then we're left with the one dealing

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1 with the murder of Davis and I can either say 20 years
2 concurrent on that, or I have the discretion to say I'm
3 going to add that 20 years on consecutively or parts of it.
4 I guess that's the way the law breaks out. And then we have
5 to have the seven-year tack-on for the gun charge.

6 So if I do run all of the Hobbs Act robberies
7 concurrently except the Davis one, we're talking about
8 240 months. If I want to run the Davis one consecutively,
9 that would be another 240 months; that's 480 months. Then,
10 on top of that, we have to have the 84 months for the gun
11 charge. I think I got that down right.

12 So if we did that, we're looking at 480 plus 84.
13 Which would be 564 months. Once again that would be
14 predicated upon 20 years concurrent for all of the
15 non-murder robberies and another 240 months for the Davis
16 one, and 84 for the, I think, it's 564 if my math is
17 correct.

18 MR. SCHNEIDER: That would be 47 years, whatever
19 that is no months.

20 MR. ROLLE: 564.

21 THE COURT: I think 564 is the same as 47 years.

22 MR. SCHNEIDER: I believe so.

23 MR. ROLLE: Yes.

24 THE COURT: So that would be 47 years.

25 And presumably, he would get credit for good time

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1 apparently so that would knock off, you know, a bunch of
2 years and he may be looking at getting freedom at about the
3 age of 70 if I calculate this correctly. So I'm not going
4 to go higher than that. I think anything higher than that
5 is not really appropriate especially when I compare this to
6 Kingsley Bernard. So anyway that's my thinking.

7 MR. ROLLE: Sure.

8 THE COURT: But I want the Government to have the
9 opportunity to tell me why I should go higher than that and
10 want Mr. Schneider to have the opportunity to tell me why I
11 should be lower than that. And then I have to make the
12 difficult decisions that is the most difficult part of being
13 a district court judge, okay?

14 You go first, Mr. Rolle.

15 MR. ROLLE: Sure, your Honor. Thank you for the
16 opportunity to be heard.

17 So in terms of this case, this defendant, situated
18 in a case you presided over and know quite well.

19 THE COURT: I know it well.

20 MR. ROLLE: Very well. Certainly better than
21 anyone sitting here as the lawyers on this case at this
22 point.

23 This case is not just about the murder, the death,
24 and killing and murder of Davis during one robbery. That
25 was a significant event, it was a significant count, a

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1 significant part of the trial, his second trial before your
2 Honor. There was a first trial and there was a reason why
3 there was two trials was because this defendant led, he led,
4 a robbery crew for more than ten years. That fact alone
5 distinguishes him from Bernard. Bernard certainly pulled
6 the trigger and killed a man in the course of a robbery.
7 This defendant planned and assisted and disposed of the
8 body. This case is just not simply about that moment in
9 time and I think that's what was important. It was
10 important to what we said in our papers. It was important
11 to this court's sentencing 20 years ago.

12 THE COURT: I agree with that conceptually, by the
13 way.

14 MR. ROLLE: And I think we can't lose sight of
15 that and I think that's what justifies sentencing him very
16 much differently than Bernard at the end of the day. When
17 you read through the PSR that came out in 2005, Bernard is
18 not mentioned as nearly as much as Myton, and that's
19 because of the role he played. Now, the times he was
20 mentioned were quite heinous and each of those points, at
21 least on one of them, the defendant was there, right there
22 by his side which is why your Honor found him inextricably
23 intertwined with the killing that occurred.

24 But I think looking at each of robberies that
25 didn't kill anyone by themselves would absolutely support a

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1 sentence of 80 years, a sentence of life. Less than an hour
2 ago in this courthouse, Judge Chin sentenced carjackers who
3 committed one gunpoint carjacking, kidnapped one person, and
4 pistol whipped one person over the course of a year to
5 24 years, to 24 years, that happened an hour ago.

6 Over the course of more than ten years, this
7 defendant helped kidnap, pistol whip in front of a baby.
8 One of his victims was holding an 18-month old child at the
9 time that he beat the mother over the face with a gun; beat
10 the father over the face with a gun.

11 The conduct recounted in the PSR is some of the
12 most shocking conduct you can conceive of. The bad old days
13 of New York City were here because Rasene Myton brought
14 everyone to it. He was captaining the ship in the '90s.
15 These are the Hobbs Act robbery crews of the Southern
16 District of New York and Eastern District of New York
17 brought time and time again these heinous and violent
18 robberies and that can't be overlooked. And the reason it
19 still supports it today is that the 22-year sentence they're
20 asking you for is totally at odds with every §3553(a)
21 factor, the rehabilitation on which it's built is not
22 existent and does not compare to Kingsley Bernard.

23 THE COURT: We have a very compelling letter from
24 the prison and -- who is this gentleman again? I don't
25 remember what his position was, but the Lieutenant Watson.

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1 MR. SCHNEIDER: So, your Honor, in our mitigation
2 submission there's several attachments. Attachment C is a
3 letter from Liston Watson who was an inmate at FCI Berlin
4 where Mr. Myton has been several years. So he wrote a
5 letter to the Court that you received separately, but I also
6 attached it.

7 THE COURT: I saw that. But he's an inmate.

8 MR. SCHNEIDER: He's an inmate. I've also
9 attached three letters from employees he the Bureau of
10 Prisons --

11 THE COURT: Right.

12 MR. SCHNEIDER: -- as Attachment D to our letter.

13 MR. ROLLE: So we recognize, your Honor --

14 THE COURT: I assume that's part of §3553(a) mix
15 those letters.

16 MR. ROLLE: And I think worth almost nothing.
17 Because at the end of the day, the fact that he treated well
18 the people charged with keeping in him in custody and didn't
19 attack or brutalize the inmates he was housed with. Should
20 he have shown such compassion to the victims, he wouldn't be
21 here. But he did and I don't think not -- I don't think
22 complying with what you're expected to do in custody is
23 worth 60 less years than your Honor imposed. A sentence
24 less than he asked you for in 2005 when they said 25 years
25 was enough. It wasn't enough then, it's not enough now.

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1 THE COURT: I think he was assessed as a low risk
2 of recidivism. I read something about that.

3 MR. ROLLE: Understood, your Honor.

4 I think that's not the entire sentencing calculus.
5 I'm also not quite sure what we can really say. I'm not
6 sure the sample size of offenders with this type of
7 underlying crime really can be borne out in a matrix that
8 they've cited to you. I think he is so unique in the level
9 and scope of the underlying robbery crimes that he can't be
10 analogized to other people in the matrix. There are not
11 people in the United States going back to the '90s who
12 committed crimes like this. It's a select group of people
13 prosecuted in the Second Circuit, in the Southern District
14 and Eastern District of New York.

15 THE COURT: So let me interrupt, also.

16 I'm thinking about Bernard. He was a poster child
17 for an extraordinary rehabilitation while he was
18 incarcerated. I think everybody agreed to that, I think.
19 The Government agreed that was extraordinary, right? And
20 so, that was a major §3553(a) factor, so there's no question
21 about it. I don't think he measures up to that bar here,
22 quite frankly. But I have to consider this as part of the
23 matrix, as part of the farrago, my new favorite word, of the
24 sentencing dynamics under §3553(a). I'm not saying it's
25 going to be a dominant one but certainly it's worthy of some

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1 consideration I suspect, okay?

2 MR. ROLLE: Your Honor, as to Bernard. I've been
3 speaking with the counsel who handled the sentencing, and I
4 think reflected in our letter, we asked for a guideline
5 sentence which I think recognized and accounted for the
6 rehabilitation. I think we're doing the same thing here.

7 THE COURT: The other thing that strikes me is
8 that all these other terrible people: Padmore, I remember
9 all of them. Who was the cop again that was involved here?
10 Maybe it was more than one. They're out, they're all
11 sentenced over the course of years and I think they all
12 have -- I think they're all free people today. I don't
13 think anybody else in is in jail. The sentences ranged,
14 they're all individual sentences, but he's the number one
15 guy.

16 MR. ROLLE: I think Francisco Lake.

17 THE COURT: Lake is still.

18 MR. ROLLE: You amended his sentence but he has
19 many years to serve.

20 THE COURT: Lake is still there?

21 MR. ROLLE: Yes.

22 THE COURT: Aside from Lake. Lake and Myton were
23 the ones who really, I guess, for lack of a better word,
24 were the major criminal activists here in so to speak.

25 MR. ROLLE: Certainly, over the timeline that we

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1 have to look at. I think we could go incident by incident
2 and say, well, I stayed in the car. Well, I didn't bind his
3 hands, I only drove away.

4 THE COURT: He was inextricably involved with a
5 lot of bad things over a long period of time. That's why
6 his sentence is going to be higher, and has been higher,
7 than all the others possibly with the exception of Lake.

8 MR. ROLLE: Yes. And just to underscore a point
9 we made in our letter. And I think this is important, and I
10 think it's salient, and I think it's unusual. We certainly
11 don't take issue with someone fighting their convictions and
12 attempting to take advantage of changes in law and different
13 judges' perspectives on what is a crime of violence and all
14 these esoteric exercises we do as lawyers. But it does
15 inform you as to what was his perspective on what he had
16 done and his acceptance of responsibility. What were the
17 arguments he made to your Honor in seeking to unwind his
18 sentence?

19 And I looked as closely as I could to as many
20 filings as I could from over the last 20 years in this case,
21 he has almost nine dockets in the Second Circuit, he has
22 four dockets in this district court, littered with filings.
23 At no point does he reflect upon what he did, acknowledge
24 what he did. And you may say, well, he's litigating legal
25 points and why would he say that.

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1 But the arguments he made were ones like: I
2 shouldn't be held responsible for Orlando Davis's killing.
3 He made that argument less than a few years ago where he's
4 still continued to say: It's not my problem. That's
5 relevant. That is incredibly relevant to understand. Has
6 he accepted responsibility and understood the harm he's
7 caused to this world and this city. I know he's said it in
8 a letter from a month ago, but what about the 70 letters
9 before then to judges across the Circuit and to your Honor.
10 Not a hint. And that's a relevant §3553(a) factor and
11 specifically relevant to rehabilitation.

12 Someone who sat for 20 years and thought: I
13 really screwed up. I destroyed a lot of lives. There's a
14 lot of rehabilitation. There's a lot of bringing together
15 you can seek to do. Apologies one could make. Making
16 amends. That didn't happen, it hasn't happened. And that's
17 relevant at the end of the day, your Honor.

18 THE COURT: So, look, you see I agree mostly with
19 what you say but I still have to come to a number here and
20 that's what makes this job kind of difficult.

21 So, Mr. Schneider, I don't know whether I can find
22 a reason for giving him less than 564 months based on
23 everything we've spoken about, and there may be a compelling
24 argument to give him more than 47 years. It's your turn to
25 try to convince me that I should not run the so-called -- is

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1 it Count Six, is that the one that deals with the murder?

2 MR. SCHNEIDER: It was Superseding Indictment Six,
3 Count Four.

4 THE COURT: We're dealing with Count Four?

5 MR. SCHNEIDER: Count Four.

6 THE COURT: I got to keep the numbers straight to
7 make sure I don't mess up. Mike is going to make sure I'm
8 getting it down right.

9 So the question is: Given the full 20 years on
10 that consecutively, or do I want to give more than 47 years.
11 I can do that, I have all this discretion here to run the
12 consecutive, concurrent. We have to come up with a number
13 and we can technically figure out how we want to carve it
14 up.

15 But it just seems to me that he was the main
16 honcho here, so to speak, or certainly one of them. And
17 compared to Bernard, he doesn't compare to him because
18 Bernard was the poster child of rehabilitation and
19 everything else that really motivated me to give him
20 21 years, basically.

21 So the floor is yours.

22 MR. SCHNEIDER: Thank you, Judge.

23 You know, when I came in here today, I was
24 prepared to talk about the change that Mr. Myton made when
25 you sentenced him 18 years ago. And I disagree with you.

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1 He has exhibited extraordinary rehabilitation and I will get
2 to that. But I've got to respond to the Government's
3 arguments which I find some of them ridiculous. And I'm
4 going to say this because nothing makes me personally more
5 angry in this courthouse than people getting sentenced to
6 90 years, life, because they chose to go to trial. This was
7 called "The Padmore Robbery Crew." Padmore was a leader.
8 He pled guilty, he got 36 years. You know why he's talking
9 about Mr. Myton should get 47 or 80 because he chose to go
10 to trial.

11 THE COURT: Let me interrupt you.

12 You know that I am very keen on being concerned
13 about what we called the "Trial Tax," I've written about it.
14 I don't think Padmore was involved in the murder of Davis,
15 if I recall correctly. I know he did a lot of bad things.
16 There's a lot of robberies, a lot of holdups. These were a
17 lot of drug-related people we talk about. We have the loss
18 of life here which I think distinguishes him from Padmore.

19 MR. SCHNEIDER: I don't have Padmore's PSR. My
20 understanding that there were three murders that he may have
21 been involved with. But I don't have that information, I
22 didn't try this case. But I will say this: The Government
23 tries to paint Mr. Myton as a leader of this crew. It was
24 the Padmore Crew. Your Honor didn't give him aggravating
25 role adjustment here as leader when he got sentenced.

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1 And as I read this PSR, the probation officer
2 seemed to make pains, the original probation officer in
3 2002, take pains to say this was not your usual top-down
4 crew. This was a diffuse group of people who would find out
5 where there was drug dealers who could be robbed and they
6 would put together a crew and they would do the robbery.
7 And they didn't seem to think anything was leader except for
8 Padmore. I'm not even getting into the police officers here
9 who, as far as I understand, their dockets are partially
10 sealed didn't see a day in jail.

11 So the leader of this crew or the ostensible
12 leader got 36 years because he pled guilty. And if my
13 client had pled guilty, he likely would have gotten
14 25 years. That's what I think.

15 THE COURT: It's hard to predict that. But there
16 is certainly a justifiable basis to sentence somebody after
17 they've been convicted compared to when they plead.

18 MR. SCHNEIDER: Sure.

19 THE COURT: But there is a limit to that because
20 it leaves as a point where it would be too punitive based
21 upon what we call the "Trial Tax." I get it.

22 MR. SCHNEIDER: I understand that. And, look, I
23 don't -- obviously, and I'm all defense counsel know this
24 and the Court knows this, if you're going to sit through a
25 trial and you're going to hear the evidence and understand

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1 what happened in that way, it's different than reading a
2 presentence report and sentencing somebody. That's obvious.
3 You know --

4 THE COURT: Let me interrupt.

5 I don't have any record of whether there was an
6 offer that was made and turned down. But who knows, it's
7 hard to go back 20 years.

8 MR. SCHNEIDER: Sure.

9 THE COURT: It may well have been an offer that
10 was a very good offer that he turned down, I don't know.

11 MR. SCHNEIDER: I don't know the answer to that
12 either. Obviously, I didn't represent him at the time.

13 THE COURT: The thing that sticks out, once again,
14 this is a prolonged period of criminal behavior. It was
15 really one-third of his life or more at the time that, you
16 know, he was finally caught and he basically fit the profile
17 of an everyday criminal. It wasn't like a one- or two-year
18 type of thing. It wasn't anything that was unusual in terms
19 of the person's otherwise aberrational life, right? He was
20 a career criminal and I a wanton criminal. And that was
21 something I remember way back which impressed negatively.

22 Go ahead.

23 MR. SCHNEIDER: I understand that, Judge. And I
24 understand that is likely the thing that may differentiate
25 him from his brother Kingsley Bernard. The length of

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1 involvement in the robbery crew. Those are the facts of the
2 case.

3 But the question now, taking Mr. Myton as he sits
4 here before you in 2023, as to what do the §3553(a) factors
5 inform you, tell you to do? And you hit on some of those.

6 First of all, my client has served the equivalent
7 of a 25-year sentence. He's done 22 years. As you noted
8 with good time, he'd probably get three years off of that.

9 So he served the equivalent of about 25 years
10 which is a significant sentence. It's not as if he hasn't
11 been punished and the Court obviously has to consider
12 punishment as part of the §3553(a) factors. But punishment
13 has been imposed and I will say part of that it is in a
14 penitentiary.

15 But because of my client's extraordinary
16 rehabilitation, he was able to move to a medium security
17 prison in New Hampshire, FCI Berlin. And I really take -- I
18 differ greatly with the Government about what is
19 extraordinary rehabilitation.

20 Mr. Myton, as far as he understood it, was likely
21 to spend the rest his life in prison. Despite that, he did
22 everything right. He has these three minor disciplinary
23 incidents over 22 years. I sent you letters from three
24 separate corrections officers, one of them who calls him a
25 role model. And it's not the for the Government to say just

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1 doing what you're supposed to it is not rehabilitation is
2 just belied by facts that we all know.

3 We all know that many of the people who come
4 before this court have tens of disciplinary incidents over a
5 much shorter time. They can't get along in prison. And
6 really people who go to prison, especially someone like
7 Mr. Myton, who thinks he's never going to get out makes a
8 decision, right? And that decision is: I'm going to learn
9 something, however long I'm in this prison for the rest of
10 my life. I'm going to learn something, I'm going to do the
11 right thing. I'm going to change my life which is what he
12 did.

13 Lots of people; in fact, I would say the majority
14 of people who get a sentence like that don't do that, right?
15 And they spend that time in jail trying to get over. You
16 can make money in jail, you can use drugs in jail, you can
17 sell drugs in jail, you can do all those things. Mr. Myton
18 never once did any of that. He changed his life. His
19 letter to you explained that. I explained that in my letter
20 he's going to speak to you in a minute to explain that. It
21 is extraordinary rehabilitation. For somebody who never
22 thinks they're going to get out of prison to do everything
23 he can to make his life better.

24 You can see in the audience his family. It's not
25 often that somebody who thinks they're going to do life can

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1 have that contact with his family and keep them in his life.
2 Lots of those people get written off. And that's not
3 because of the family so much but because of the person who
4 can't really deal with keeping contact with the outside
5 world with keeping their life alive.

6 So it's not just what Mr. Myton did after you
7 sentenced him while he was in prison for 22 years, it's that
8 he did it understanding that he likely was never going to
9 get out of prison.

10 And I have to say something about the Government
11 mentioning Mr. Myton's litigation before this and other
12 courts. I have to say this. I get the bounces, Judge, and
13 I know you get lots of §2255s and you get a lot of motions
14 that you think are probably frivolous. And I get the bounce
15 when my clients file those and I see them. And every time I
16 get those bounces, I'm like, good for him. And I don't say
17 "good for him" because he should be wasting the Court's time
18 or because I think that motion has a chance of success. I
19 say it because somebody who is doing that is using their
20 prison time as constructively as they can. The one thing
21 that can't stop me from doing in prison is going to the law
22 library researching and writing.

23 So, yes, and I'm not necessarily talking about
24 Mr. Myton here, lots of prisoners send frivolous motions to
25 the Court. But when they're doing that, they're sort of

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1 exercising the only responsible way to use their time that
2 they're allowed in a prison. Like you can't hold it against
3 a guy --

4 THE COURT: Wait a second. I don't hold it
5 against him at all.

6 MR. SCHNEIDER: I know you don't.

7 THE COURT: I look over these things. We wrote
8 extensively in each of his applications. None of them said
9 they were frivolous.

10 MR. SCHNEIDER: The Government did.

11 THE COURT: Well.

12 MR. SCHNEIDER: The Government did in their
13 letters.

14 I'm just saying, whenever I see one of those I'm,
15 like, good for Mr. Jones; good for Mr. Smith, he's using
16 his time in prison constructively. Maybe it's not -- maybe
17 I don't think it's going to work and usually it's not, but
18 that means somebody is going to the law library and spending
19 their time reading and writing rather than all the other
20 things you can do in prison.

21 THE COURT: Well, I don't take the position that
22 these are frivolous applications.

23 MR. SCHNEIDER: Thank you, Judge.

24 THE COURT: Somebody's in jail for the rest of his
25 life has every right to try to really bring to the attention

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1 of the Judge and the justice system such as it is of what he
2 things is wrong and we dealt with him seriously.

3 MR. SCHNEIDER: I agree with that. My point is
4 simply to reject the Government's argument that displays a
5 lack of acceptance of responsibility.

6 MR. ROLLE: That's not our argument, your Honor.

7 THE COURT: I don't think they're really saying
8 that. Let's move on to something more substantive.

9 MR. SCHNEIDER: Okay. Mr. Myton is 52 years old
10 and you mentioned we were speaking to the Government. I
11 think his record in prison, his age, his criminal history at
12 the time of the offense. And I have to say this, Judge, you
13 know when you sentenced him, the one thing, when I read the
14 transcript, that stuck out at me is you really seem to focus
15 on detaining him because he was a danger. Like, the
16 specific deterrence part of §3553. And you said at the
17 time, I think you have to be locked up to protect the
18 public.

19 I don't think that's the case anymore, I think
20 he's proved that. And I think you should feel secure that
21 he could be released and he'd never come before you again.
22 He'd never commit another crime. Somebody does not do
23 22 years in prison, following all the rules as he has, doing
24 all of the programs, keeping contact with his family if he
25 hasn't changed.

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1 So, you know, I wrote in my letter, yes, he had
2 that period of criminality. And I sort of tried to convey
3 why that started and it's not an excuse. His sister got
4 kicked out of the house, he decided to go with her. He was
5 18 years old, he was looking to help her and he started
6 committing petty crimes and got hooked up with this Padmore
7 Crew and he eventually came before you and got sentenced to
8 90 years in prison.

9 So he made all these terrible decisions and he
10 decided to victimize those people and you gave him a
11 sentence for that. But when you gave him that sentence, he
12 had another decision to make and, at that point, he made the
13 right decision. He was 30 something years old at the time.
14 He's 52 now, he's done everything right. He could be
15 released without posing a danger to anybody, I think the
16 record reflects that. I think the other §3553(a) factors
17 warrant a sentence -- and I heard you that you're not going
18 to give him time served, I understand that. But I think the
19 sentence of 27 years, which would be a concurrent sentence
20 on the robbery counts, plus the seven that you believe
21 applies for the §924(c) is well more than sufficient to
22 serve the interest of justice.

23 General deterrence will certainly be served. That
24 is a significant sentence. The median sentence for robbery
25 in federal courts in the last year was only 22 years. It

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1 was less than 25 years. I'm sorry, for murder, that's for
2 murder offenses. So it's not as if giving him the sentence
3 that we requested would be some sort of gift.

4 THE COURT: I'm always troubled by this, you know,
5 sort of statistics that's tossed out at me that the median
6 sentence for murder is 22 years or 24 years because it
7 really doesn't tell me a lot, you know, because there are
8 murders that require people to be in jail for the rest of
9 their lives and those that maybe they could be released much
10 earlier. They're so fact specific, but we have this general
11 norm here which I don't pay so much attention to, by the
12 way.

13 MR. SCHNEIDER: I understand what you're saying,
14 and obviously, you know, it's difficult to inform yourself
15 about comparative offenses that you don't know, you don't
16 know the circumstances. But it is true that as I started
17 off saying here that Mr. Padmore who led this crew, who had
18 the police officers giving him information, got 36 years.
19 And my client sits here, I believe, because he went to
20 trial, chose to go to trial. And I don't want to talk about
21 the Trial Tax, I calmed down since I first started talking
22 to you, Judge, but a 27-year sentence is certainly more than
23 sufficient to serve the interest of justice.

24 I will just say this: My client, should he be
25 released in this country which is unlikely, it appears I

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1 think he's going to go into immigration custody and likely
2 to be deported to Jamaica. But if he was released in this
3 country, his family is there to support him. They have a
4 room for him. A person who is willing to give him a job is
5 in the audience. He has set up his life to move forward.

6 THE COURT: Yes. So he's not a citizen, I take
7 it, and I think he's subject to deportation from what I
8 read. He may not be deported, but that also is a §3553(a)
9 factor which I guess I ought to consider as well.

10 MR. ROLLE: I think he can. I just wanted to
11 heard on a few points from Mr. Schneider's arguments to your
12 Honor but only if he's finished. I don't know if he's
13 finished.

14 MR. SCHNEIDER: Depending on what you say I'm
15 finished.

16 MR. ROLLE: Okay. I think the main point is this
17 idea of a Trial Tax couldn't be more irrelevant as we sit
18 here today. As we recognize, we started this proceeding not
19 a single person sitting on this side of the dais was here.
20 I certainly wasn't a lawyer. The people who tried this case
21 are special counsel to the United States, private
22 practitioners at this point. And having -- know nothing
23 about the case, we here are in the best position to give you
24 a sense of what is -- what are we doing here de novo and
25 reading these facts.

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1 THE COURT: There are situations which trouble the
2 Court about, you know, disproportionate sentences because
3 somebody went to trial. I don't see it as this type of
4 case.

5 MR. ROLLE: I agree. My point is only it is
6 certainly not the case that the argument we're making to
7 your Honor has anything to do with that. Having not sat
8 through the trial or known anything other than the cold
9 record and facts displayed here.

10 THE COURT: There are better Trial Tax cases than
11 this one.

12 MR. ROLLE: And our reaction to it is same as it
13 probably was to your Honor having sat through it originally.
14 And that is the core of what we're asking for and I think
15 punishment is quite an important factor today. I think the
16 rehabilitation outlined by Mr. Schneider is important, we
17 recognize it. We're happy to hear that. I think it can be
18 accounted for. It does not justify a 22-year sentence, a
19 25-year sentence, or a 27-year sentence. It just simply
20 does not.

21 THE COURT: Now, let me get this down straight
22 before I ask Mr. Myton to speak. I just want to make sure
23 with all these charges out there that I have the right
24 combination.

25 Count One is early 240 months. Counts Two and Six

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1 are also 240 months. And the three and five are out, we
2 know that.

3 What is the one that is implicated with the Davis
4 murders? That's seven?

5 MR. SCHNEIDER: That's Count Four of Superseding
6 Indictment Six.

7 THE COURT: That's Count Four.

8 So then you would have Counts One, Two, Six and
9 Seven within the Hobbs Act robberies that would be each the
10 20-year concurrent time?

11 MR. ROLLE: Not Seven, your Honor. Seven is the
12 firearms count.

13 THE COURT: Let me get that right. It's One,
14 Three -- One, Two.

15 MR. ROLLE: Six.

16 THE COURT: Six, Seven. And Seven, right?

17 MR. ROLLE: S-4, Count One; S-4, Count Two; S-4,
18 Count Six.

19 And then the second indictment which involves
20 Davis robbery is S-6, Count Four.

21 THE COURT: Was what?

22 MR. ROLLE: Superseding Indictment Six, Count
23 Four.

24 THE COURT: It was Count Four, yes. That's the
25 one that -- what about Count Seven?

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1 MR. SCHNEIDER: Count Seven is the §924(c) count
2 on the Superseding Indictment Four.

3 THE COURT: So we're talking about One, Two, and
4 Six, basically, right?

5 MR. ROLLE: Yes.

6 THE COURT: And then we have the Four is the one
7 that involves Davis, right?

8 MR. ROLLE: Correct.

9 THE COURT: And the Seven is the tack-on for
10 either Five or Seven years.

11 MR. ROLLE: Correct.

12 THE COURT: After 29 years here, sometimes you get
13 a little confused.

14 MR. SCHNEIDER: It's always confusing, Judge.

15 I just want to make clear that, obviously, this
16 court has the discretion not only to impose the
17 robbery-related counts concurrently, but also to impose any
18 term of imprisonment between zero and 20 years. You don't
19 have to give him 20 years, that's obvious, I assume, to the
20 Court. But it's been discussed as if some 20-year sentence
21 is mandatory, that is not accurate.

22 THE COURT: I can run One, Two, Six, and Four all
23 20 years concurrent if I wanted to.

24 MR. SCHNEIDER: Correct.

25 THE COURT: But you add the 84 months on Count

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1 Seven if I wanted to.

2 MR. SCHNEIDER: That's correct. But you could
3 also impose --

4 MR. ROLLE: You could give him zero.

5 MR. SCHNEIDER: Five years for each and run them
6 concurrent or consecutive. I'm saying 20 years is not --
7 that's the statutory maximum.

8 THE COURT: That's not maximum. I think what're
9 what concerned about is the total number, however we get
10 there.

11 MR. SCHNEIDER: Absolutely, I agree.

12 THE COURT: Let me hear from Mr. Myton now. I
13 mean, we've had a fulsome discussion here. This is how I
14 like to conduct sentences. I don't know how my colleagues
15 do it. But to me this is the important thing that we get
16 caught up in the numbers and stuff like that.

17 So I appreciate the fact that you had the
18 opportunity to speak to me. I come into court, I don't have
19 the sentence down pat, I don't do that. So these things are
20 very important. I mean, I have these discussions and to
21 listen to everybody.

22 Mr. Myton, I don't hold it against you that you
23 have been a frequent visitor to Judge Block in terms of your
24 applications. I think a lot of them were well thought out,
25 quite frankly. I think you know we treated this seriously

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1 even though he were not successful. We wrote extensively on
2 this. You were caught up in this matrix in terms of the
3 Supreme Court and the higher authorities trying to figure
4 out what to do with whether an attempted robbery was a crime
5 of violence or not. And a lot of these things were held in
6 abeyance until we finally got that sorted out. But the way
7 it worked out finally is that, yes, robbery is a crime of
8 violence. Attempted robbery is not a crime of violence.
9 And then I have recently wrote the Second Circuit affirmed
10 my Taveras case which said conspiracy is a crime of
11 violence.

12 So it's really a matrix of things here but we
13 finally got the law straight and you're going to be the
14 beneficiary of the fact that the Supreme Court and the other
15 courts have now sorted all that out. So you're not going to
16 be held responsible for Counts Three and Five, okay?

17 Now, having said all that, you know exactly what
18 my concern is, I don't think I have to repeat it, but this
19 is your opportunity to speak to me before sentence is
20 imposed.

21 THE DEFENDANT: Thank you, your Honor.

22 18 years old I stood before you at sentencing.

23 THE COURT: Try to speak up as loud as you can.

24 THE DEFENDANT: 18 years ago, I stood before you
25 at sentencing. You asked me if I had anything to say. I

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1 said I did not. At the time, I truly did not have anything
2 to say.

3 Today, 18 years later, I feel I have a lot to say.
4 Not just to this court but to the victims and their family.
5 If I could go back to time and undo the pain I have caused,
6 I would but that is not wait life is. All I can say is that
7 I am truly sorry for pain and the suffering that I have
8 caused. I know saying "I'm sorry" does not undo the damages
9 that have already been done but I hope it can help heal some
10 of the pain.

11 The person that was convicted 22 years ago is not
12 the same man standing before you today. The day you
13 sentenced me, your Honor, I was not bitter or angry, nor did
14 I disrespect you with angry outbursts or obscene language.
15 Though I knew I was going away to prison for the rest of my
16 life, in that moment I did not see myself going to prison
17 but rather going away to college.

18 Shortly, after arriving at USP Lee, I had an
19 epiphany one night while I laid on my bunk. I recall a
20 Serenity Poem I read. The first line says, God grant me the
21 serenity to accept the things I cannot change. At that
22 moment, I realized there is absolutely nothing I can do
23 about my situation. The second line: The courage to change
24 the things I can. So I decided to change, to throw the old
25 me in the trash and remake myself into a better man.

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1 Thankfully with the hope of others, I was able to do that.
2 And the third line says: And the wisdom to know the
3 difference.

4 By understanding that I began to realize the
5 damages and the pain I was inflicting on others. Not just
6 the physical pain but the emotional pain as well. Not just
7 on the victims but on my own family as well. My sister's
8 never ending support was pivotal in my change for the
9 better. Seeing the pain in her eyes whenever she visited me
10 in prison was often unbearable at that times. Also not
11 seeing my daughter Cheyenne and nieces Tisha and Melissa,
12 both were teenagers and graduating high school, and
13 especially my younger daughter Alexis now 22 about to
14 graduate college in May whom I haven't seen since she was
15 four years old and me not being there to witness it is like
16 an unbearable weight sitting on my heart. It helped
17 motivate me to be better, not just for me but also for them.

18 Through the grace of the creator, I was able to
19 surround myself with people who guided me on how to better
20 myself. I learned how to conquer my situation, to not get
21 lost in the system like other inmates I see getting high all
22 the time, involved in violent altercations, just the cost of
23 being incarcerated.

24 I became a master of my faith. So to be
25 completely honest, your Honor, I am grateful for the

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1 experience. Not that I like being in prison but the
2 experience has allowed me to grow and really understand
3 myself and the pain I was causing others.

4 It also made me realize that the most important
5 things in life; that is, God, family, and freedom. No one
6 should take the either for granted like I did. No one truly
7 understands the importance of these things until they're
8 taken away. Fortunately, I was able to learn and understand
9 the importance of God, family, and freedom. A lot of people
10 cannot say the same.

11 So as I stand before your Honor, I am humbled by
12 the experience. I am truly sorry and I offer my sincerest
13 apologies to you for putting you in a position to pass
14 judgment on me 18 years ago. I hope and pray that you can
15 see that I am not that man anymore and grant me the
16 opportunity to prove to you that you can give me another
17 chance.

18 Thank you, your Honor.

19 THE COURT: Thank you, Mr. Myton.

20 I'm going to take a little bit of a recess and I
21 will be back in about ten minutes or so.

22 (Defendant exits from courtroom at 1:09 p.m.)

23 (A recess in the proceedings was taken.)

24 (Defendant enters the courtroom at 1:22 p.m.)

25 THE COURT: First, I want to thank counsel of both

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1 the Government and Mr. Schneider for your excellent
2 assistance.

3 This is not easy. I need all the help I can get
4 and I appreciate your efforts that you made to help Court
5 come to these difficult decisions.

6 So the total amount of months is going to be
7 456 months and that's going to be divided as follows:

8 Counts One and Two and Six is 240 months each to
9 run concurrently. And on Count Four, it's also going to be
10 240 months, but there will be 132 months that will be
11 consecutive.

12 On top of that, and in respect to Count Seven,
13 there will be an additional 84 months. And I just want the
14 record to note that I would have imposed the same 84 months
15 even if I did not believe that that was the mandatory
16 minimum. I think it's warranted in any event. So the
17 record should reflect that.

18 So if the calculation is correct, that means it
19 should all up add up to 456 months. Check it. I try to be
20 careful with the math but these are tricky things.

21 Three years' supervised release on each count to
22 run concurrently.

23 The standard conditions of supervised release are
24 the same as they were before. That will also be part of the
25 judgment here.

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1 We already said there will no fine that continues.

2 We have dealt with the special assessment.

3 You're going to let me know how you folks want to
4 deal with that and I think that's about it.

5 Is there anything I may have stubbed my toe on or
6 I may have inadvertently missed?

7 MR. ROLLE: No. As to the special assessment I
8 think as part of the judgment, the \$500 is imposed.

9 THE COURT: \$500 will be the special assessment.

10 MR. ROLLE: On the back end of the sentence
11 satisfies.

12 THE COURT: You let me know what you want me to do
13 with that maybe we can possibly agree on that somehow.

14 MR. ROLLE: Yes.

15 THE COURT: Mr. Schneider, anything else that I
16 may have inadvertently messed up on, I don't think so. It's
17 not easy.

18 MR. SCHNEIDER: No. I appreciate the Court's
19 attention. During the break, I wasn't able to get into
20 PACER but I was able to verify that Mr. Padmore pled guilty
21 to three murders and was sentenced to 36 years. So I don't
22 think that's going to change your opinion.

23 THE COURT: There's a long history here and I
24 wrestled with it and I think I have it about right. I take
25 into consideration everything which I thought I ought to

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1 think about. I don't have to trot it out again but I have
2 considered the §3553(a) factors, the nature of his criminal
3 behavior against all these other things we spoke about
4 today. I don't have to specify it again, I don't believe.

5 But I think it's a fair balance considering
6 everything and he's instead of going to be in jail for the
7 rest of life, if he behaves himself, I think he can look
8 forward to having be a free man by the age of 62 or
9 thereabouts I think.

10 MR. SCHNEIDER: Probably in about ten years
11 according to what you've imposed.

12 THE COURT: So I'm satisfied with the balance that
13 I've struck. Thank you all for helping me out. I
14 appreciate it and that completes the sentence.

15 (WHEREUPON, this matter was adjourned.)

16 * * *

17 CERTIFICATE OF REPORTER

18 I certify that the foregoing is a correct transcript of the
19 record of proceedings in the above-entitled matter.

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21
22 

24 Anthony D. Frisolone, FAPR, RDR, CRR, CRI
25 Official Court Reporter